

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-724

13 **PATRICIA JEAN RILEY**
231 Delaware Street
Vallejo, CA 94590
14 Registered Nurse License No. 425480

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about April 30, 1988, the Board of Registered Nursing issued Registered Nurse
23 License Number 425480 to Patricia Jean Riley (Respondent). The Registered Nurse License was
24 in full force and effect at all times relevant to the charges brought in this Accusation and will
25 expire on August 31, 2011, unless renewed.
26
27
28

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811, subdivision (b), of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

7. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

8. Section 492 of the Code states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

1 STATUTORY AND REGULATORY PROVISIONS

2 9. Section 2761 of the Code states:

3 “The board may take disciplinary action against a certified or licensed nurse or deny an
4 application for a certificate or license for any of the following:

5 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

6 ...
7 “(f) Conviction of a felony or of any offense substantially related to the qualifications,
8 functions, and duties of a registered nurse, in which event the record of the conviction shall be
9 conclusive evidence thereof.”

10 10. Section 2762 of the Code states, in pertinent part:

11 “In addition to other acts constituting unprofessional conduct within the meaning of this
12 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
13 chapter to do any of the following:

14 “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
15 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
16 administer to another, any controlled substance as defined in Division 10 (commencing with
17 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
18 defined in Section 4022.

19 ...
20 “(c) Be convicted of a criminal offense involving the prescription, consumption, or
21 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
22 or the possession of, or falsification of a record pertaining to, the substances described in
23 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
24 thereof.”

25 11. Section 490 of the Code provides, in pertinent part, that a board may suspend or
26 revoke a license on the ground that the licensee has been convicted of a crime substantially
27 related to the qualifications, functions, or duties of the business or profession for which the
28 license was issued.

1 12. California Code of Regulations, title 16, section 1444, states, in pertinent part:

2 "A conviction or act shall be considered to be substantially related to the qualifications,
3 functions or duties of a registered nurse if to a substantial degree it evidences the present or
4 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
5 safety, or welfare."

6 DRUGS

7 13. Cocaine is a schedule II controlled substance and narcotic as defined by section
8 11055, subdivision (b)(6), of the Health and Safety Code, and a dangerous drug as defined by
9 Code section 4022. It is a highly addictive recreational drug.

10 14. Methamphetamine is a Schedule II controlled substance as defined by Health and
11 Safety Code section 11055, subdivision (d)(2), and a dangerous drug as defined by Code section
12 4022. It is a stimulant drug and a highly addictive recreational drug.

13 COST RECOVERY

14 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licensee found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Conviction)

19 (Bus. & Prof. Code §§ 490, 2761, subd. (f), 2762, subd. (c); Cal. Code Regs, tit. 16, § 1444)

20 16. Respondent has subjected her registered nurse license to disciplinary action under
21 Code sections 490, 2761, subdivision (f), and 2762, subdivision (c), within the meaning of
22 California Code of Regulations, title 16, section 1444, in that she was convicted of a crime
23 involving the possession of controlled substances, which is substantially related to the
24 qualifications, functions, and duties of a registered nurse. The circumstances are that on or about
25 July 8, 2010, in a criminal matter entitled *The People of the State of California v. Patricia Riley*,
26 in the San Diego County Superior Court, Case Number CS237337, Respondent was convicted by
27 guilty plea of one count of violating Health and Safety Code section 11350, subdivision (a)
28

1 (possession of a controlled substance – cocaine), a felony, and one count of violating Health and
2 Safety Code section 11377, subdivision (a) (possession of a controlled substance –
3 methamphetamine), a felony. Respondent was sentenced to three years of probation. Respondent
4 was also ordered to: (1) pay various fees and fines; (2) complete 20 days in the Public Service
5 Work Program; (3) participate in and successfully complete a drug treatment program;
6 (4) authorize treatment providers and counselors to provide progress reports to the Probation
7 Officers, treatment team, and court; (5) attend Alcoholics Anonymous or Narcotics Anonymous
8 groups as directed by her Probation Officer; (6) totally abstain from drinking alcoholic beverages
9 and not be in places where alcohol is the primary source of business; (7) not use or possess any
10 controlled substance or solicit others to use or possess or associate with others who use or possess
11 any controlled substance; (8) submit to any test for the use of controlled substances or alcohol as
12 requested by a Probation Officer, law enforcement officer, or the court and authorize release of
13 any such results; (9) submit to a search at any time if requested by a Probation Officer or law
14 enforcement officer; and (10) register pursuant to Health and Safety Code section 11590.

15 SECOND CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct – Possession of Controlled Substance)
17 (Bus. & Prof. Code § 2761, subd. (a), 2762, subd. (a))

17 17. Complainant realleges the allegations contained in paragraph 16 above, and
18 incorporates them as if fully set forth here.

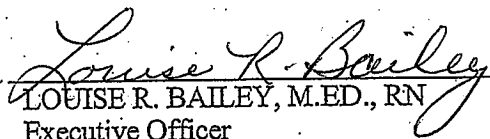
19 18. Respondent has subjected her registered nurse license to disciplinary action under
20 Code sections 2761, subdivision (a), and 2762, subdivision (a), in that she possessed controlled
21 substances and dangerous drugs. The circumstances are set forth above in paragraph 16.
22
23
24

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 425480, issued to Patricia Jean Riley;
2. Ordering Patricia Jean Riley to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/23/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2010900528
90177802.doc